SUPREME COURT OF THE UNITED STATES.

No. ~~207~~. 1256 1926.

HENRY A. KOHN et al., Pl'ffs in Er.,

vs.

LEVI J. UNNA.

IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF ILLINOIS.

GIDEON, Printer

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SUPREME COURT OF THE UNITED STATES.

No. 287.

HENRY A. KOHN et al., Pl'ffs in Er.,

vs.

LEVI J. UNNA.

IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF ILLINOIS.

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PLEAS in the Circuit Court of the United States of America for the Northern District of Illinois, held at the city of Chicago, in said district, before the Hon. Thomas Drummond, District Judge of said district, and in the absence pro tempore of the Hon. John McLean, one of the Justices of the Supreme Court of the United States, sole Judge of said Circuit Court, on Saturday, the fifth day of March, in the December Term, A. D. 1858, of said court, in the year of our Lord one thousand eight hundred and fifty-nine, and of our Independence the eighty-third year. WM. H. BRADLEY, Clerk.

LEVI J. UNNA
vs.
HENRY A. KOHN, JOSEPH KOHN, WILLIAM M. ROSS, JOHN H. ROSS, MORRIS SELZ, ABRAHAM COHEN, HENRY LEOPOLD, JOHN M. HUNTINGTON, LEONARD B. SHEARER, and WILLIAM W. STRONG.

Northern District of Illinois, ss.

Be it remembered, that on the twenty-fourth day of June, in the year of our Lord one thousand eight hundred and fifty-eight, came the said plaintiff by Messrs. Tuley and Gary, his attorneys, and filed in the office of the Clerk of the Circuit Court of the United States for the Northern District of Illinois, his præcipe praying the issue of a writ of summons against Henry A. Kohn, Joseph Kohn, William M. Ross, John H. Ross, George Kennedy, Morris Selz, Abraham Cohen, Henry Leopold, Benedict Schlossman, Edward Isidor, John M. Huntington, Leonard A. Shearer, William W. Strong, Gustavus Schiffer, and Augustus Schiffer, defendants, in a plea of trespass, damages fifteen thousand dollars, which said præcipe is in the words and figures following, to wit:—

In the United States Circuit Court for the
Northern District of Illinois.
Of the July Term, A. D. 1858.

LEVI J. UNNA, Plaintiff,
vs.
HENRY A. KOHN, JOSEPH KOHN, WILLIAM M. ROSS, JOHN H. ROSS, GEORGE KENNEDY, MORRIS SELZ, ABRAHAM COHEN, HENRY LEOPOLD, BENEDICT SCHLOSSMAN, EDWARD ISIDOR, JOHN M. HUNTINGTON, LEONARD B. SHEARER, WILLIAM W. STRONG, GUSTAVUS SCHIFFER, and AUGUSTUS SCHIFFER, Defendants.
Trespass. Damages, $15,000.

Clerk will please issue summons in an action to be commenced as above.
TULEY and GARY,
June 24, 1858. Att'ys for Unna.

Endorsed: Filed, June 24th, 1858.
WM. H. BRADLEY, Clerk.

Whereupon a writ of summons was issued against the said defendants as prayed for, directed to the marshal of the Northern District of Illinois, to execute, and was returned by the marshal on the first day of July, in the year last aforesaid, executed upon the said defendants, Henry A. Kohn, Joseph Kohn, John H. Ross, George Kennedy, Morris Selz, Abraham Cohen, Henry Leopold, Benedict Schlossman, John W. Huntington, Leonard B. Shearer, Wm. W. Strong, Gustavus Schiffer, and Augustus Schiffer, which said writ, together with the return of the Marshal thereon, is in the words and figures following, to wit:—

Circuit Court of the United States of America, Northern District of Illinois, ss.

The United States of America, to the Marshal of the Northern District of Illinois, greeting:—

We command you that you summon Henry A. Kohn, Joseph Kohn, William M. Ross, John H. Ross, George Kennedy, Morris Selz, Abraham Cohen, Henry Leopold, Benedict Schlossman, Edward Isidor, John M. Huntington, Leonard B. Shearer, Wm. W. Strong, Gustavus Schiffer, and Augustus Shiffer, if they shall be found in your district, to be and appear before our judges of our Circuit Court of the United States, for the Northern District of Illinois, at the next term thereof, to be holden at Chicago, in the district aforesaid, on the first Monday of July next, to answer unto Levi J. Unna, in a plea of trespass, to his damage as he alleges of fifteen thousand dollars, and have you then and there this writ.

Witness the Hon. Roger B. Taney, Chief Justice of the Supreme Court of the United States of America, at Chicago aforesaid, this 24th day of June, in the year of our Lord one thousand eight hundred and fifty-eight, and of our independence to 82d year.

[L. S.] WM. H. BRADLEY, Clerk.

Served the within writ by reading the same to the within named Henry A. Kohn, Joseph Kohn, John H. Ross, George Kennedy, Morris Selz, Abraham Cohen, Henry Leopold, Benedict Schlossman, John M. Huntington, Leonard B. Shearer, Wm. W. Strong, Gustavus Schiffer, Augustus Schiffer, and within their hearing, this 1st day of July, A. D. 1858. Edward Isidor and William M. Ross not found in my district.

JAMES W. DAVIDSON, U. S. Marshal.
By FRED. MATTENS, Deputy.

Endorsed: Filed July 1st, A. D. 1855.
WM. H. BRADLEY, Clerk.

And on the fifth day of July, in the year last aforesaid, an alias writ of summons was issued against the said defendants, Edward Isidor and William M. Ross, directed to the marshal of the Northern District of Illinois, to execute, and was returned by the marshal on

the seventh day of July, in the year last aforesaid, executed upon the said defendants, which said writ together with the return of the marshal thereon is in the words and figures following, to wit:—

Circuit Court of the United States of America, Northern District of Illinois, ss.

The United States of America, to the Marshal of the Northern District of Illinois, greeting:—

We command you again that you summon Edward Isidor and William M. Ross, impleaded with others, if they shall be found in your district, to be and appear before our judges of our Circuit Court of the United States for the Northern District of Illinois, at the term thereof, now being holden at Chicago, in the district aforesaid, on the 10th day of July instant, to answer unto Levi J. Unna, in a plea of trespass, to his damage as he alleges of fifteen thousand dollars, and have you then and there this writ.

Witness the Hon. Roger B. Taney, Chief Justice of the Supreme Court of the United States of America, at Chicago aforesaid, this fifth day of July, in the year of our Lord one thousand eight hundred and fifty-eight, and of our independence the 83d year.

[L. S.] WM. H. BRADLEY, Clerk.

Served the within writ by reading the same to the within named, Edward Isidor and William M. Ross, and within their hearing, the 6th day of July, A. D. 1858.

JAMES W. DAVIDSON, U. S. Marshal.
By FRED. MATTENS, Deputy.

Endorsed: Filed July 7th, A. D. 1858.
WM. H. BRADLEY, Clerk.

And on the third day of July, in the year last aforesaid, came again the said plaintiff, by his attorneys, and filed in the office of the clerk of said court his declaration against the said defendants, in the plea aforesaid, which said declaration is in the words and figures following, to wit:—

Circuit Court of the United States for the Circuit and District of the Northern District of Illinois.

Of the July Term, A. D. 1858.

Northern District of Illinois, ss.

Levi J. Unna, plaintiff, who is a subject of the King of Denmark, and an alien, by Tuley and Gary, his attorneys, complains of Henry A. Kohn, Joseph Kohn, William M. Ross, John H. Ross, George Kennedy, Morris Selz, Abraham Cohen, Henry Leopold, Benedict Schlossman, Edward Isidor, John M. Huntington, Leonard B. Shearer, William W. Strong, Gustavus Schiffer and Augustus Schiffer, defendants, who are citizens of the State of Illinois, and were summoned, &c., of a plea of trespass.

For that the said defendants on the first day of May, A. D. 1858, and on divers other days and times between that day and the day of the commencement of this suit, with force and arms, &c., broke and entered a certain storehouse and shop of the said plaintiff, and also a certain furniture store of the said plaintiff, all situate and being on a certain lot of land of the said plaintiff on the south side of Lake Street, in the city of Chicago, in said district, which said premises are known and described as number 205 Lake Street, in said city, and then and there made a great noise and disturbance therein, and stayed and continued therein, making such noise and disturbance for a long space of time, to wit, for the space of fifty-four days then next following, and also during the time aforesaid, to wit, on the first day of May, A. D. 1858, with force and arms, &c., seized and took divers goods and chattels, to wit: Fifty sofas, two hundred and fifty rocking chairs, ten easy chairs, five hundred other chairs, twenty lounges, five hundred tables, fifty stands, fifty whatnots, one thousand looking glasses, one hundred bureaus, one hundred wash-stands, ten bed quilts, ten ottomans, fifty stools, twenty brooms, ten marble slabs, ten desks, fifty mattresses, fifty pillows, five hundred bedsteads, ten reams sand paper, two hundred gallons varnish, ten stoves, five shooting boards, fifty bed cords, one hundred gross webbing, one hundred dozen castors, ten carpets, ten saws, ten hammers, fifty yards hair cloth, fifty yards plush, fifty yards cambric, five wagons, ten boxes springs, a lot of frames, posts, legs, sides, ends, tops, bottoms, pins and parts of unfinished sofas, chairs, tables, bureaus, stands, stools, and bedsteads, twenty window shades, one hundred picture and mirror frames, two hundred boxes of glass, ten thousand feet of moulding, five hundred looking-glass plates, one vice, ten benches, two hundred pounds of whiting, one hundred pounds of glue, two dozen cords and tassels, one hundred yards lace, fifty papers tacks, three signs, one iron horse, one diamond, one hundred boxes looking-glasses, a lot of tools and implements of trade for making and repairing funiture, one hundred yards fringe, one box spindles, two child's chairs, ten barber's chairs, five music stools, ten hall stands, a lot of tow and gimp, a lot of materials for gilding, ten thousand feet of lumber of the said plaintiff, then there being found and being in the said storehouse, shop and furniture store, and being of great value, to wit, of the value of ten thousand dollars, and carried away the same, and converted and disposed of the same to their own use, whereby the said plaintiff, for and during all that time, lost and was deprived of the use and benefit of his said storehouse, shop and furniture store, to wit, at the city of Chicago, in the district aforesaid, and was during all that time hindered and prevented from carrying on and transacting therein his lawful and necessary affairs and business, to wit, at the city of Chicago, in the district aforesaid.

And also, for that the said defendants on the said first day of May, A. D. 1858, with force and arms, &c., broke and entered certain other premises, close and building of the said plaintiff, situate and

being in the city of Chicago, in the district aforesaid, known and described as number 205 Lake Street, in said city, and then and there ejected, expelled, put out and removed the said plaintiff and his agents, clerks and servants from the possession, use, occupation and enjoyment of the said last mentioned premises, close and building, and kept and continued them so ejected, expelled, put out and removed for a long space of time, to wit, from thence hitherto, whereby the said plaintiff for and during all that time lost and was deprived of the use and benefit of his said last mentioned premises, close and building, to wit, at the district aforesaid.

And also, for that the said defendants on the said first day of May, A. D. 1858, with force and arms, &c., to wit, at the city of Chicago, in the district aforesaid, seized, took and carried away divers other goods and chattels of the said plaintiff of the like number, quantity, quality, description and value as the said goods and chattels in the said first count mentioned, there then being found, and being and converted, and disposed of the same to their own use.

And other wrongs to the said plaintiff then and there did against the peace of the United States of America, and to the damage of the said plaintiff of fifteen thousand dollars, and therefore he brings his suit, &c. TULEY & GARY, Att'ys for Pl'ff.

Endorsed: Filed July 3d, 1858.

WM. H. BRADLEY, Cl'k.

And afterwards, to wit, on Tuesday, the sixth day of July, in the July Term of said court, in the year last aforesaid, the following proceedings were had in said court in said entitled cause, and entered of record, to wit:—

LEVI J. UNNA

vs.

HENRY A. KOHN, JOSEPH KOHN, JOHN H. ROSS, GEORGE KENNEDY, MORRIS SELZ, ABRAHAM COHEN, *et al.*

Trespass.

On motion of the defendants, by their attorney, the time within which they are required to file their plea herein is extended until Monday morning next.

And afterwards, to wit, on the tenth day of July, in the year last aforesaid, came the said defendants, Augustus Schiffer and Gustavus Schiffer, in their own proper persons, and filed, in the office of the clerk of said court, their plea is said entitled cause, which said plea is in the words and figures following, to wit:—

United States of America, Northern District of Illinois, ss.

Circuit Court. July Term, 1858.

LEVI J. UNNA

vs.

HENRY A. KOHN, JOSEPH KOHN, WILLIAM M. ROSS, JOHN H. ROSS, GEORGE KENNEDY, MORRIS SELZ, ABRAHAM COHEN, HENRY LEOPOLD, BENEDICT SCHLOSSMAN, EDWARD ISIDOR, JOHN M. HUNTINGTON, LEONARD B. SHEARER, WILLIAM W. STRONG, GUSTAVUS SCHIFFER, AUGUSTUS SCHIFFER.

In Trespass.

And the said Augustus Schiffer and Gustavus Schiffer, in their own proper person, come and defend the force and injury, &c., and say that the court here ought not further to take cognizance of or sustain the action aforesaid, because they say that the said Augustus Schiffer, defendant, is not a citizen of the State of Illinois, but is a subject of the King of Prussia, and an alien, and this they are ready to verify, wherefore they pray judgment if the court here will take further cognizance of or sustain said action, and for their costs.

GUSTAVUS SCHIFFER,
AUGUSTUS SCHIFFER.

HASBROUCK DAVIS, Att'y and of
Counsel for A. Schiffer and G. Schiffer, Def'ts.

United States of America, Northern District of Illinois, ss.

Circuit Court. July Term, 1858.

LEVI J. UNNA

vs.

HENRY A. KOHN, JOSEPH KOHN, WILLIAM M. ROSS, JOHN H. ROSS, GEORGE KENNEDY, MORRIS SELZ, ABRAHAM COHEN, HENRY LEOPOLD, BENEDICT SCHLOSSMAN, EDWARD ISIDOR, JOHN M. HUNTINGTON, LEONARD B. SHEARER, WILLIAM W. STRONG, GUSTAVUS SCHIFFER, and AUGUSTUS SCHIFFER.

In Trespass.

Augustus Schiffer, defendant in this cause, makes oath and says, that the above plea is true in substance and matter of fact.

AUGUSTUS SCHIFFER.

Subscribed and sworn to before me, this 10th day of July, A. D. 1858. WM. H. BRADLEY, Cl'k.

Endorsed: Filed July 10th, 1858.

WM. H. BRADLEY, Cl'k.

And afterwards, to wit, on the thirteenth day of July, in the year last aforesaid, came the defendants, Leonard B. Shearer and William

W. Strong, by Messrs. Beattis and Huntington, their attorneys, and filed, in the office of the clerk of said court, their plea and notice in said entitled cause, which said plea and notice are in the words and figures following, to wit:—

In the Circuit Court of the United States for the Circuit of the Northern District of Illinois.

Of the July Term, A. D. 1858.

LEONARD B. SHEARER, WILLIAM W. STRONG, impleaded with HENRY A. KOHN, JOSEPH KOHN, GEORGE KENNEDY, MORRIS SELZ, ABRAHAM COHEN, HENRY LEOPOLD, BENEDICT SCHLOSSMAN, JOHN M. HUNTINGTON, WILLIAM M. ROSS, JOHN H. ROSS, EDWARD ISIDOR, GUSTAVUS SCHIFFER, and AUGUSTUS SCHIFFER,

ads.

LEVI J. UNNA.

And the said Leonard B. Shearer and William W. Strong, by Beattis and Huntington, their attorneys, come and defend the force and injury when, &c., and say that they are not guilty of the said supposed trespasses above laid to their charge, or any part thereof, in manner and form as the said Levi J. Unna hath above thereof complained against them, and of this they, the said Leonard B. Shearer and William W. Strong, put themselves upon the country, &c.

BEATTIE & HUNTINGTON, Attorneys for Defendants, Leonard B. Shearer and William W. Strong.

And the said plaintiff do the *the* like, &c.

TULEY & GARY, Pl'ff's Att'ys.

To Levi J. Unna—

Sir: Take notice, that on the trial of the above cause the defendants will give in evidence that the promises in the plaintiff's declaration mentioned, and in which the injuries complained of are supposed to have been committed, together with the goods and chattels alleged in said declaration to have been seized, carried away, and converted to the use of the said defendants by them, are, and at the time when said injuries were supposed to have been committed, were the property of David Sternberg and Edward Isidor, and not the property of Levi J. Unna, as is alleged in said declaration of the said plaintiff.

Also, that at the May vacation term of the Cook County Court of Common Pleas, the said defendant, Leonard B. Shearer and William W. Strong, with their partner, John S. Paine, recovered a judgment by the confession of the said Edward Isidor, impleaded with the said David Sternberg against the said Edward Isidor for the sum of $108 00, debt and costs.

Also at the same term of the same court the same parties recovered a judgment by the like confession against the said David Sternberg and Edward Isidor for the sum of $382 75, debt and costs.

Also at the same term of the same court, on a like confession, the

said defendant, Leonard B. Shearer, with one James S. Jones, recovered a judgment against the said Edward Isidor, impleaded with said David Sternberg, for the sum of $307 51, on which said judgment against the said Edward Isidor, as well as on the said judgment against the said David Sternberg and Edward Isidor, executions were duly issued out of said court directed to the sheriff of the county of Cook, commanding him to levy upon the goods and chattels, lands and tenements, of the said Edward Isidor, and sell the same, and out of the proceeds thereof to satisfy said judgments against the said Edward Isidor; and also commanding him, the said sheriff, to levy upon the goods and chattels, lands and tenements, of the said David Sternberg and Edward Isidor, and sell the same, and out of the proceeds thereof to satisfy said judgment against the said David Sternberg and Edward Isidor. That by virtue of said writs the sheriff entered the said premises mentioned in said declaration and levied upon the interests of the said David Sternberg and Edward Isidor, in the goods and chattels described in said declaration, and sold the same as he was so as aforesaid commanded to do. And that these are the same trespasses complained of in said plaintiff's said declaration. That the said entry into the said premises was made, and said goods and chattels so seized, while the said writs of execution so issued in the said judgments were in full force and running unexpired; and that said entry was made lawfully, the outer door being open. And that said entry, seizure, and sale were all made within the county of Cook, and within the jurisdiction of the sheriff to whom said writs of execution were directed.

BEATTIE & HUNTINGTON, Attorneys for
Defendants, Leonard B. Shearer and William W. Strong.

Endorsed: Filed July 13th, 1858.

WM. H. BRADLEY, Cl'k.

And on the same day, to wit, the thirteenth day of July, in the year last aforesaid, came the defendant John M. Huntingdon, by D. C. Beattie, Esq., his attorney, and filed in the office of the clerk of said court his plea in said entitled cause, which said plea is in the words and figures following, to wit:—

In the Circuit Court of the United States for the Circuit of the Northern District of Illinois. Of the July Term, A. D. 1858.

JOHN M. HUNTINGTON, impleaded with HENRY A. KOHN, WILLIAM M. ROSS, JOHN H. ROSS, JOSEPH KOHN, GEORGE KENNEDY, MORRIS SELZ, ABRAHAM COHEN, HENRY LEOPOLD, BENEDICT SCHLOSSMAN, EDWARD ISIDOR, LEONARD B. SHEARER, WILLIAM W. STRONG, GUSTAVUS SCHIFFER, and AUGUSTUS SCHIFFER,

ads.

LEVI J. UNNA.

And the said John M. Huntingdon, by D. C. Beattie, his attorney, comes and defends the force and injury, when, &c., and says that he

is not guilty of the said supposed trespasses above laid to his charge, or any part thereof, in manner and form as the said Levi J. Unna hath above thereof complained against him, and of this the said John M. Huntington puts himself upon the country, &c.

D. C. BEATTIE,
Attorney for John M. Huntington.

And the said plaintiff doth the like, &c.

TULEY & GARY, Pl'ff's Att'ys.

Endorsed: Filed July 13th, 1858.

WM. H. BRADLEY, Clk.

And on the same day, to wit, the thirteenth day of July, in the year last aforesaid, came the said defendants, William M. Ross and John H. Ross, by Messrs. Beattie and Huntington, their attorneys, and filed in the office of the clerk of said court their plea and notice in said entitled cause, which said plea and notice are in the words and figures following, to wit:—

In the Circuit Court of the United States for the Circuit of the Northern District of Illinois. Of the July Term, A. D. 1858.

WILLIAM M. ROSS, JOHN H. ROSS, impleaded with HENRY A. KOHN, JOSEPH KOHN, GEORGE KENNEDY, MORRIS SELZ, ABRAHAM COHEN, HENRY LEOPOLD, BENEDICT SCHLOSSMAN, EDWARD ISIDOR, JOHN M. HUNTINGTON, LEONARD B. SHEARER, WILLIAM W. STRONG, GUSTAVUS SCHIFFER and AUGUSTUS SCHIFFER,

ads.

LEVI J. UNNA.

And the said William M. Ross and John H. Ross, by Beattie and Huntington, their attorneys, come and defend the force and injury, when, &c., and say that they are not guilty of the said supposed trespasses above laid to their charge, or any part thereof, in manner and form as the said Levi J. Unna hath above thereof complained against them, and of this they the said William M. Ross and John H. Ross put themselves upon the country, &c.

BEATTIE & HUNTINGTON,
Attorneys for Def'ts Wm. M. Ross and John H. Ross.

And the said plaintiff doth the like, &c.

TULEY & GARY, Pl'ff's Att'ys.

To Levi J. Unna—

Sir: Take notice that on the trial of the above cause the defendants will give in evidence that the premises in the plaintiff's declaration mentioned, and in which the injuries complained of are supposed to have been committed, together with the goods and chattels alleged in said declaration to have been seized, carried away and converted to the use of the said defendants by them, are, and at the time when said injuries were supposed to have been committed were, the pro-

perty of David Sternberg and Edward Isidor, and not the property of Levi J. Unna, as is alleged in said declaration of said plaintiff.

Also, that at the May Vacation Term of the Cook County Court of Common Pleas the said defendants, William M. Ross and John H. Ross, recovered a judgment by the confession of the said Edward Isidor, impleaded with said David Sternberg against the said Edward Isidor for the sum of $472.81, on which said judgment an execution was duly issued out of said court, directed to the sheriff of the county of Cook, commanding him to levy upon the goods and chattels, lands and tenements of the said Edward Isidor, and sell the same, and out of the proceeds thereof to satisfy said judgment. That by virtue of said writ the said sheriff entered the said premises mentioned in said declaration and levied upon the interest of said Edward Isidor in the goods and chattels described in said declaration and sold the same, as he was so as aforesaid commanded to do, and that these are the same trespasses complained of in said plaintiff's said declaration.

That the said entry into the said premises was made and said goods and chattels so seized while the said writ of execution so issued on the said judgment was in full force and running unexpired, and that said entry was made lawfully, the outer door being open, and that said entry, seizure and sale were all made within the county of Cook and within the jurisdiction of the sheriff to whom said writ of execution was directed. BEATTIE & HUNTINGTON,

Att'ys for Def'ts Wm. M. Ross and John H. Ross.

Endorsed: Filed July 13th, 1858.

WM. H. BRADLEY, Clk.

And on the same day, to wit, the thirteenth day of July, in the year last aforesaid, came the defendant Edward Isidor, by Messrs. Beattie and Huntington, his attorneys, and filed in the office of the clerk of said court his plea in said entitled cause, which said plea is in the words and figures following, to wit:—

In the Circuit Court of the United States for the Circuit of the Northern District of Illinois. Of the July Term, A. D. 1858.

EDWARD ISIDOR, impleaded with WILLIAM M. ROSS, JOHN H. ROSS, HENRY A. KOHN, JOSEPH KOHN, GEORGE KENNEDY, MORRIS SELZ, ABRAHAM COHEN, HENRY LEOPOLD, BENEDICT SCHLOSSMAN, JOHN M. HUNTINGTON, LEONARD B. SHEARER, WILLIAM W. STRONG, GUSTAVUS SCHIFFER and AUGUSTUS SCHIFFER,

ads.

LEVI J. UNNA.

And the said Edward Isidor, by Beattie and Huntington, his attorneys, come and defends the force and injury, when, &c., and says that he is not guilty of the said supposed trespasses above laid to his charge, or any part thereof, in manner and form as the

said Levi J. Unna hath above thereof complained against him, and of this he the said Edward Isidor puts himself upon the country, &c.

BEATTIE & HUNTINGTON,
Att'ys for Edward Isidor.

And the plaintiff doth the like, &c.

TULEY & GARY, Pl'ff's Att'ys.

Endorsed: Filed July 13th, 1858.

WM. H. BRADLEY, Clk.

And afterwards, to wit, on the fourteenth day of July, in the year last aforesaid, came the defendants Henry A. Kohn and Joseph Kohn, by Messrs. Beattie and Huntington, their attorneys, and filed in the office of the clerk of said court their plea and notice in said entitled cause, which said plea and notice are in the words and figures following, to wit:—

In the Circuit Court of the United States for the circuit of the Northern District of Illinois, of the July term, A. D. 1858.

HENRY A. KOHN and JOSEPH KOHN, impleaded with JOHN M. HUNTINGTON, WILLIAM M. ROSS, JOHN H. ROSS, GEORGE KENNEDY, MORRIS SELZ, ABRAHAM COHEN, HENRY LEOPOLD, BENEDICT SCHLOSSMAN, EDWARD ISIDOR, LEONARD B. SHEARER, WILLIAM W. STRONG, GUSTAVUS SCHIFFER, and AUGUSTUS SCHIFFER,
ads.
LEVI J. UNNA.

And the said Henry A. Kohn and Joseph Kohn, by Beattie and Huntington, their attorneys, come and defend the force and injury when, &c., and say that they are not guilty of the said supposed trespasses above laid to their charge, or any part thereof, in manner and form as the said Levi J. Unna hath above thereof complained, against them, and of this the said Henry A. Kohn and Joseph Kohn put themselves upon the country, &c.

BEATTIE & HUNTINGTON,
Att'ys for Kohn and Kohn.

And the said plaintiff doth the like, &c.

TULEY & GARY, Plff's att'ys.

To Levi J. Unna:—

Sir: Take notice that on the trial of the above cause the defendants will give in evidence that the premises in the plaintiff's declaration mentioned, and in which the injuries complained of are supposed to have been committed, together with the goods ond chattels alleged in said declaration to have been seized, carried away and converted to the use of the said defendants by them, are, and at the time when said injuries were supposed to have been committed were, the property of David Sternberg and Edward Isidor, and not the

property of Levi J. Unna, as is alleged in said declaration of the said plaintiff. Also, that at the May vacation term of the Cook County Court of Common Pleas, the defendants, Henry A. Kohn and Joseph Kohn, recovered a judgment by the confession of the said Edward Isidor, impleaded with the said David Sternberg, against the said Edward Isidor for the sum of $391 00, debt and costs, on which said judgment an execution was duly issued out of said court, directed to the sheriff of the county of Cook, commanding him to levy upon the goods and chattels, lands and tenements of the said Edward Isidor, and sell the same, and out of the proceeds thereof to satisfy said judgment against the said Edward Isidor; that by virtue of said writ of execution the sheriff entered the said premises mentioned in said declaration and levied upon the interest of the said Edward Isidor in the goods and chattels described in said declaration, and sold the same, as he was so as aforesaid commanded to do, and that these are the same trespasses complained of in said plaintiff's said declaration; that the said entry into the said premises was made and said goods and chattels so seized while the said writ of execution so issued on the said judgment was in full force and running unexpired, and that said entry was made lawfully, the outer door being open, and that said entry, seizure and sale were all made within the county of Cook and within the jurisdiction of the sheriff to whom said writ of execution was directed.

BEATTIE & HUNTINGTON,
Att'ys for Def'ts, Kohn and Kohn.

Endorsed: Filed July 14th, 1858.

WM. H. BRADLEY, Clk.

And afterwards, to wit, on the fifteenth day of July, in the year last aforesaid, came the defendants, Morris Selz and Abraham Cohen, by Messrs. Gookins, Thomas and Roberts, their attorneys, and filed in the office of the clerk of said court their plea and notice in said entitled cause, which said plea and notice is in the words and figures following, to wit:—

In the United States Circuit Court, Northern District of Illinois.

MORRIS SELZ and ABRAHAM COHEN, impleaded with HENRY A. KOHN and others, ats. LEVI J. UNNA. } Trespass.

And the said Morris Selz and Abraham Cohen come and defend the force and injury, when, &c., and say that they are not guilty of the said supposed trespasses in the plaintiff's declaration mentioned in manner and form as the said plaintiff hath thereof declared against them, and of this they put themselves upon the country.

GOOKINS, THOMAS & ROBERTS,
Def'ts' Att'ys.

And the plaintiff doth the like, &c.

TULEY & GARY, Pl'ff's Att'ys.

The plaintiff is notified that on the trial of the above entitled cause, the said defendants will give in evidence that the premises in the declaration mentioned, the breaking and entering whereof is alleged, and the goods and chattels in said declaration also mentioned, at the time of the alleged breaking and entering and seizing thereof, as aforesaid, were the property of Edward Sternberg and Edward Isidor, and not the property of the plaintiff, and that on the 8th day of May, in the Court of Common Pleas of Cook County, the defendants, Morris Selz and Abraham Cohen, recovered a judgment against one Edward Isidor, for the sum of $362 (dollars) and 8 cents, and six dollars costs, and that on the same day a writ of fieri facias was issued from said court to the sheriff of said county of Cook, and that the said Edward Isidor and one David Sternberg being partners, and owners as such partners of the stock of goods in the declaration mentioned, the said sheriff entered into the said premises, the outer door being open, and seized and took the said goods and chattels for the purpose of selling the interest of the said Edward Isidor therein, the said execution being then in full force, which is the same supposed trespass in the plaintiff's declaration mentioned.

GOOKINS, THOMAS & ROBERTS,
Att'ys for Def'ts.

Endorsed: Filed July 15th, 1858.

WM. H. BRADLEY, Clk.

And on the same day, to wit, the fifteenth day of July, in the year last aforesaid, came the defendants, Henry Leopold and Benedict Schlossman by Messrs. Gookins, Thomas and Roberts, their attorneys, and filed in the office of the clerk of said court this plea in said entitled cause, which said said plea is in the words and figures following, to wit:—

United States Circuit Court, Northern District of Illinois.

HENRY LEOPOLD and BENEDICT SCHLOSSMAN, impleaded with HENRY A. KOHN and others, ats. LEVI J. UNNA. } Trespass.

And said defendants, Henry Leopold and Benedict Schlossman, come and defend the force and injury when, &c., and say they are not guilty in manner and form as the said plaintiff in his declaration hath complained, and of this they put themselves upon the country.

GOOKINS, THOMAS, and ROBERTS, Def'ts' Att'ys.

And the said plaintiff doth the like, &c.

TULEY and GARY, Pl'tiff's Att'ys.

Endorsed: Filed July 15th, 1858.

WM. H. BRADLEY, Cl'k.

And afterwards, to wit, on the seventeenth day of July, in the year last aforesaid, came the defendant, George Kennedy, by Beattie

and Huntington, his attorneys, and filed in the office of the clerk of said court, his plea in said entitled cause, which said plea is in the words and figures following, to wit:—

In the Circuit Court of the United States for the
Circuit of the Northern District of Illinois.

Of the July Term, A. D. 1858.

GEORGE KENNEDY, impleaded with HENRY A. KOHN, JOSEPH KOHN, WILLIAM M. ROSS, JOHN H. ROSS, MORRIS SELZ, ABRAHAM COHEN, HENRY LEOPOLD, BENEDICT SCHLOSSMAN, EDWARD ISIDOR, JOHN M. HUNTINGTON, LEONARD B. SHEARER, WILLIAM W. STRONG, GUSTAVUS SCHIFFER, and AUGUSTUS SCHIFFER.
ads.
LEVI J. UNNA.

And the said George Kennedy, by Beattie and Huntington, his attorneys, comes and defends the force and injury when, &c., and says, that he is not guilty of the said supposed trespasses, or any or either of them, or any part thereof, in manner and form as the said plaintiff hath above thereof complained against him, and of this he, the said George Kennedy, puts himself upon the country, &c.

BEATTIE and HUNTINGTON,
Att'ys for George Kennedy.

And the said plaintiff doth the like, &c.

TULEY and GARY, Pl'ff's Att'ys.

Endorsed: Filed July 17th, 1858.

WM. H. BRADLEY, Cl'k.

And afterwards, to wit, on Tuesday, the 20th day of July, in the July Term of said court, in the year last aforesaid, the following further proceedings were had in said court in said entitled cause, and entered of record, to wit:—

LEVI J. UNNA
vs.
HENRY A. KOHN, JOSEPH KOHN, WILLIAM M. ROSS, JOHN H. ROSS, GEORGE KENNEDY, MORRIS SELZ, ABRAHAM COHEN, HENRY LEOPOLD, BENEDICT SCHLOSSMAN, EDWARD ISIDOR, JOHN M. HUNTINGTON, LEONARD B. SHEARER, WILLIAM H. STRONG, GUSTAVUS SCHIFFER, and AUGUSTUS SCHIFFER. } Trespass.

Now comes the plaintiff by Messrs. Tuley and Gary, his attorneys, and says he will no further prosecute this suit as against the defendants, Gustavus Schiffer and Augustus Schiffer, but dismiss the same; it is thereupon considered by the court that the same be dismissed as against the said defendants, Gustavus Schiffer and Augustus Schiffer.

And afterwards, to wit, on Monday, the eighteenth day of October, in the October adjourned term of said court, in the year last aforesaid, the following further proceedings were had in said court in said entitled cause, and entered of record, to wit:—

LEVI J. UNNA
vs.
HENRY A. KOHN, JOSEPH KOHN, WILLIAM M. ROSS, JOHN H. ROSS, GEORGE KENNEDY, MORRIS SELZ, ABRAHAM COHEN, HENRY LEOPOLD, BENEDICT SCHLOSSMAN, EDWARD ISIDOR, JOHN M. HUNTINGTON, LEONARD B. SHEARER, and WILLIAM W. STRONG. } Trespass.

Now come the parties by their respective attorneys, and upon issue joined thereupon come a jury of good and lawful men, to wit, E. B. Brewster, Ira Stone, Cephas Dunning, Daniel Wilson, Andrew A. Ashton, Dennis Smith, Benjamin Graham, David Henning, Harry Russell, John Hoffman, Alexander McCully, and John Rotton, who were duly elected, tried, and sworn well and truly to try said issue; and after hearing the opening statement of counsel, and a part of the testimony, the hour of adjournment having arrived, the further trial of the cause is postponed until to-morrow morning.

And afterwards, to wit, on Tuesday the nineteenth day of October, in the October adjourned term of said court, in the year last aforesaid, the following further proceedings were held in said court in said entitled cause, and entered of record, to wit:—

LEVI J. UNNA
vs.
HENRY A. KOHN, JOSEPH KOHN, WILLIAM M. ROSS, JOHN H. ROSS, GEORGE KENNEDY, MORRIS SELZ, ABRAHAM COHEN, HENRY LEOPOLD, BENEDICT SCHLOSSMAN, EDWARD ISIDOR, JOHN M. HUNTINGTON, LEONARD B. SHEARER, and WILLIAM W. STRONG.

Trespass.

Now come again the parties by their respective attorneys, and now come also the jury heretofore empanelled in this cause, and after proceeding further in the trial of this cause until the hour of adjournment without concluding the same, the further trial of the same is postponed until to-morrow morning.

And afterwards, to wit, on Wednesday the twentieth day of October, in the October adjourned term of said court, in the year last aforesaid, the following further proceedings were had in said court in said entitled cause, and entered of record, to wit:—

LEVI J. UNNA
vs.
HENRY A. KOHN, JOSEPH KOHN, WILLIAM M. ROSS, JOHN H. ROSS, GEORGE KENNEDY, MORRIS SELZ, ABRAHAM COHEN, HENRY LEOPOLD, BENEDICT SCHLOSSMAN, EDWARD ISIDOR, JOHN M. HUNTINGTON, LEONARD B. SHEARER, and WILLIAM W. STRONG.

Trespass.

Now come again the parties by their respective attorneys, and now come also the jury heretofore empanelled in this cause, and after progressing further in the trial of the cause, the plaintiff, by his attorney, says he will no further prosecute this suit as against the defendants, Benedict Schlossman, George Kennedy, and Edward Isidor, but dismiss the same. It is therefore considered by the court that the same be dismissed as against the said defendants, and the hour of adjournment having arrived before concluding the trial of the cause, the further trial thereof is postponed until to-morrow morning.

And afterwards, to wit, on Thursday the twenty-first day of October, in the October adjourned term of said court, in the year last aforesaid, the following further proceedings were held in said court in said entitled cause, and entered of record, to wit:—

LEVI J. UNNA
vs.
HENRY A. KOHN, JOSEPH KOHN, WILLIAM M. ROSS, JOHN H. ROSS, MORRIS SELZ, ABRAHAM COHEN, HENRY LEOPOLD, JOHN M. HUNTINGTON, LEONARD B. SHEARER, and WILLIAM W. STRONG.

Trespass.

Now come again the parties by their respective attorneys, and now come also the jury heretofore empanelled in this cause, and after hearing the concluding testimony, and a part of the argument of counsel, the hour of adjournment having arrived, the further arguments of counsel are postponed until to-morrow morning.

And afterwards, to wit, on Friday, the twenty-second day of October, in the October adjourned term of said court, in the year last aforesaid, the following further proceedings were had in said court in said entitled cause, and entered of record, to wit:—

LEVI J. UNNA
vs.
HENRY A. KOHN, JOSEPH KOHN, WILLIAM M. ROSS, JOHN H. ROSS, MORRIS SELZ, ABRAHAM COHEN, HENRY LEOPOLD, JOHN M. HUNTINGTON, LEONARD B. SHEARER, WILLIAM W. STRONG.

Trespass.

Now come again the parties by their respective attorneys, and now come the jury heretofore empanelled in this cause, and after hearing

the concluding arguments of counsel, and receiving instructions from the court, the jury retired to consider of their verdict, and by agreement of the parties by their attorneys, it is ordered by the court that the jury, when they shall have agreed upon their verdict, may sign and seal the same, and deliver the same to the clerk and disperse, and meet the court at nine o'clock to-morrow morning.

And afterwards, to wit, on Saturday, the twenty-third day of October, in the October adjourned term of said court, in the year last aforesaid, the following further proceedings were had in said court in said entitled cause, and entered of record, to wit:—

LEVI J. UNNA

vs.

HENRY A. KOHN, JOSEPH KOHN, WILLIAM M. ROSS, JOHN H. ROSS, MORRIS SELZ, ABRAHAM COHEN, HENRY LEOPOLD, JOHN M. HUNTINGTON, LEONARD B. SHEARER, and WILLIAM W. STRONG.

Trespass.

Now come again the parties by their respective attorneys, and now come also the jury heretofore empanelled in this cause, and having reported that they were unable to agree upon a verdict, they were discharged by the court.

And afterwards, to wit, on Wednesday, the second day of February, in the year A. D. 1859, in the December Term, A. D. 1858, of said court, the following further proceedings were had in said court in said entitled cause, and entered of record, to wit:—

LEVI J. UNNA

vs.

HENRY A. KOHN, JOSEPH KOHN, WILLIAM M. ROSS, JOHN H. ROSS, MORRIS SELZ, ABRAHAM COHEN, HENRY LEOPOLD, JOHN M. HUNTINGTON, LEONARD B. SHEARER, and WILLIAM W. STRONG.

Trespass.

Now come the parties by their attorneys, and upon issue joined, thereupon come a jury of good and lawful men, to wit:—

Edward Matthews, Robert H. Howe, Edward B. Hanna, Matthew Taggart, Randolph Burt, Darius Wilbur, Thomas Barrett, R. W. Carson, James R. White, William Bacon, George R. Webster, James S. Spud, who were duly elected, tried and sworn well and truly to try the issue herein, and after progressing with the trial until the hour of adjournment without concluding the same, the further trial is postponed until to-morrow morning at nine o'clock.

And afterwards, to wit, on Thursday, the third day of February, in the year last aforesaid, in the December Term, A. D. 1858, of said court, the following further proceedings were had in said court in said entitled cause, and entered of record, to wit:—

LEVI J. UNNA
vs.
HENRY A. KOHN, JOSEPH KOHN, WILLIAM M. ROSS, JOHN H. ROSS, MORRIS SELZ, ABRAHAM COHEN, HENRY LEOPOLD, JOHN M. HUNTINGTON, LEONARD B. SHEARER, and WILLIAM W. STRONG.

Trespass.

Now come again the parties by their attorneys, and now come also the jury heretofore empanelled in this cause, and after further progressing in the trial without concluding the same, it is ordered that the further trial be postponed until to-morrow morning.

And afterwards, to wit, on Friday, the fourth day of February, in the year last aforesaid, in the December Term, A. D. 1858, of said court, the following further proceedings were had in said court in said entitled cause, and entered of record, to wit:—

LEVI J. UNNA
vs.
HENRY A. KOHN, JOSEPH KOHN, WILLIAM M. ROSS, JOHN H. ROSS, MORRIS SELZ, ABRAHAM COHEN, HENRY LEOPOLD, JOHN M. HUNTINGTON, LEONARD B. SHEARER, and WILLIAM W. STRONG.

Trespass.

Now come again the parties by their attorneys, and now come also the jury heretofore empanelled in this cause, and after hearing the concluding testimony and part of the arguments of counsel, the hour of adjournment having arrived, it is ordered that the further trial be postponed until to-morrow morning at nine o'clock.

And afterwards, to wit, on Saturday, the fifth day of February, in the year last aforesaid, in the December Term, A. D. 1858, of said court, the following further proceedings were had in said court in said entitled cause, and entered of record, to wit:—

LEVI J. UNNA
vs.
HENRY A. KOHN, JOSEPH KOHN, WILLIAM M. ROSS, JOHN H. ROSS, MORRIS SELZ, ABRAHAM COHEN, HENRY LEOPOLD, JOHN M. HUNTINGTON, LEONARD B. SHEARER, and WILLIAM W. STRONG.

Trespass.

Now come again the parties by their attorneys, and now also come the jury heretofore empanelled in this cause, and after hearing the concluding arguments of counsel, and receiving instructions from the court, the jury retired to consider of their verdict, and after a short absence they returned into court the following verdict, to wit: We, the jury, find the defendants guilty, and assess the damages of the plaintiff at the sum of six thousand three hundred and seven dollars and eighty-nine cents. Whereupon the defendants, by their attorney, move the court for a new trial herein.

And afterwards, to wit, on Friday, the fourth day of March, in

the year last aforesaid, in the December Term, A. D. 1858, of said court, the following further proceedings were had in said court in said entitled cause, and entered of record, to wit:—

LEVI J. UNNA

vs.

HENRY A. KOHN, JOSEPH KOHN, WILLIAM M. ROSS, JOHN H. ROSS, MORRIS SELZ, ABRAHAM COHEN, HENRY LEOPOLD, JOHN M. HUNTINGTON, LEONARD B. SHEARER, and WILLIAM W. STRONG.

Trespass.

Now comes on to be heard the motion of the defendants heretofore made herein for a new trial of this cause, and the court, after hearing the arguments of the counsel, not being sufficiently advised in the premises, takes time to consider.

And afterwards, to wit, on Saturday, the fifth day of March, in the year last aforesaid, in the December Term, A. D. 1858, of said court, the following further proceedings were had in said court in said entitled cause, and entered of record, to wit:—

LEVI J. UNNA

vs.

HENRY A. KOHN, JOSEPH KOHN, WILLIAM M. ROSS, JOHN H. ROSS, MORRIS SELZ, ABRAHAM COHEN, HENRY LEOPOLD, JOHN M. HUNTINGTON, LEONARD B. SHEARER, and WILLIAM W. STRONG.

Trespass.

The court having fully considered, and being now fully advised upon the motion of the defendants heretofore entered herein by their attorneys for a new trial of this cause, overruled the same. And now comes the plaintiff, by his attorneys, and moves the court for judgment upon the verdict of the jury heretofore found and entered herein.

It is thereupon considered and adjudged by the court that the plaintiff have and recover of the defendants the said sum of six thousand three hundred and seven dollars and eighty nine cents, his damages so as aforesaid found and assessed by the jury, together with his costs by him about his suit in this behalf expended, amounting to the sum of two hundred and thirty-eight dollars and thirty-nine cents, and that he have execution therefor.

And the defendants, by their attorneys, pray a writ of error to the Supreme Court of the United States.

On the trial of the above entitled cause the following exceptions were made and allowed, to wit:—

Supreme Court of the United States.

WILLIAM M. ROSS, JOHN H. ROSS, HENRY A. KOHN, JOSEPH KOHN, LEONARD B. SHEARER, WILLIAM W. STRONG, MORRIS SELZ, ABRAHAM COHEN, HENRY LEOPOLD, and JOHN M. HUNTINGTON, pl'ffs in error,

ads.

LEVI J. UNNA, def't in error.

Afterwards, to wit, at a United States Circuit Court, held at the city of Chicago, in and for the Seventh Judicial Circuit and Northern District of Illinois, on the day of February, in the year 1859, before Thomas Drummond, Esq., Judge of said district, appointed to hold the said Circuit Court according to the form of the statute in such case made and provided, the aforesaid issue, so joined between the said parties as aforesaid, came on to be tried by a jury of said district, for that purpose duly empanelled, good and lawful men of the said district.

At which day came there as well the said plaintiff as the said defendants, by their respective attorneys aforesaid, and the jurors of the jury aforesaid, being called, also came and were then and there in due manner chosen and sworn to try the said issue.

And upon the trial of the said issue, the counsel for the plaintiff, to maintain and prove the said issue on his part, first proved and read in evidence executions from the Cook County Court of Common Pleas in favor of the said defendants and against one Edward Isidor, with returns thereon endorsed by George Anderson, deputy of John L. Wilson, sheriff of said county, that said executions had been satisfied by sale of goods and chattels.

And next upon the trial of said issue the counsel for the plaintiff, to maintain and prove the issue on his part, produced as witnesses the said John L. Wilson and George Anderson, and offered to prove by the said Wilson and Anderson, among other things, the delivery of said executions to said Wilson as such sheriff, and that by the order of said defendants the same were levied in May, A. D. 1858, on the goods and chattels claimed by the said plaintiff, to wit, the property in controversy in this suit; but to the admission of the said Wilson and Anderson as witnesses the said counsel for the said defendants did then and there object, because the said Wilson and Anderson were co-trespassers and were interested in having judgment go against the said defendants, and that in the event of a recovery of the said plaintiff in this suit, the said Wilson and Anderson would be exonerated from all liability. But the said judge did then and there declare and deliver his opinion that the said objections, so taken by the said counsel for the said defendants, ought not to be allowed, but that the said John L. Wilson and George Anderson ought to be admitted to testify as witnesses, and did accordingly decide that they should be admitted and sworn as witnesses, to which said opinion and decision of the said judge the said counsel for the said defendants did then and there, in behalf of the said defendants, except.

And the said counsel for the said plaintiff, further to maintain and prove the said issue on his part, having produced and given testimony tending to prove that the said plaintiff was the owner and in possession of the said goods and chattels so sold under said executions, and among other witnesses for that purpose having introduced one David Sternberg, formerly a partner in the firm of Sternberg & Isidor, for the debts of which firm said executions had been issued

against the said Edward Isidor, he having been the other partner in said firm of Sternberg & Isidor, the counsel of the said defendants thereupon proceeded to cross-examine the said Sternberg for the purpose of proving, and did prove, by said Sternberg, that a large portion of the said goods and chattels had formerly belonged to the said firm of Sternberg & Isidor, and did further, by said Sternberg, give evidence tending to prove that the title of the said plaintiff thereto was fraudulent against the creditors of the said firm of Sternberg & Isidor.

And thereupon the said counsel for the said plaintiff, further to maintain and prove the said issue on his part, proved and read in evidence a bill of sale of such portion of said goods and chattels from one Lazarus Stern to the said plaintiff, dated in November, A. D. 1857, and the delivery of possession of such portion of said goods and chattels under the said bill of sale, and also produced testimony to prove that the said plaintiff had, between November, A. D. 1857, and May, A. D. 1858, purchased other portions of said goods and chattels from various other persons, a portion of said goods having been destroyed by fire, and said plaintiff having received a large sum from the insurance company on account thereof; and also produced and offered in evidence testimony to prove that the said Lazarus Stern purchased said goods so sold by him to said plaintiff at a sheriff's sale made by the sheriff of Cook County, in July, A. D. 1857, of which sale Sternberg & Isidor had knowledge at the time, and to which they did not object, though it did not appear that they knew of the variance in name hereinafter shown, which sheriff's sale was under and by virtue of three several executions, of which the following are copies :—

State of Illinois, County of Cook ss.

The people of the State of Illinois to the sheriff of said county, greeting :—

We command you that of the lands and tenements, goods and chattels of David Sternberg and Edward Isidor, defendants, in your county, you cause to be made the sum of one thousand two hundred and nineteen dollars, which Lazarus Stein, plaintiff, lately in the Circuit Court of Cook County, at a special term thereof, began and held at Chicago, in said county, on the fourth Monday of June last past, recovered against the said defendants, and which by the said court were adjudged to the said plaintiff for his damages. And also the further sum of four dollars and fifty cents, which were adjudged to the said plaintiff for his costs and charges in that behalf expended, whereof said defendants are convicted, as appears to us of record. And have you these moneys ready to render to the said plaintiff for his damages and costs aforesaid, and make return of this writ, with an endorsement hereon in what manner you shall have executed the same, in ninety days from the date hereof.

Witness, William L. Church, clerk of our said court, and the seal thereof, at Chicago, in said county, this 14th day of July, A. D. 1857.

[SEAL.] WM. L. CHURCH, Clerk.

Endorsed on back: Fi. Fa. No. 7841, Cause No. 9770.

Damages,	$1,219 00
Plaintiff's costs,	4 50
Defendant's costs,	1 55
	$1,225 05

Rec'd 12-15 P. M., July 14, 1857.

And I return the said annexed execution satisfied.

JOHN L. WILSON, Sheriff.
By IRA SNOW, Deputy.

State of Illinois, County of Cook, ss.

The people of the State of Illinois to the sheriff of said county, greeting:—

We command you, that of the lands and tenements, goods and chattels, of David Sternberg and Edward Isidor, defendants, in your county, you cause to be made the sum of one thousand eight hundred and thirty-three dollars and fifty cents, which Lazarus Stein, plaintiff, lately, in the Circuit Court of Cook County, at a term thereof, began and held at Chicago, in said county, on the fourth Monday of June last past recovered against the said defendants, and which by the said court were adjudged to the said plaintiff for his damages.

And all the further sum of four dollars and fifty cents, which were adjudged to the said plaintiff for his costs and charges in that behalf expended, whereof said defendants are convicted as appears to us of record; and have you these moneys ready to render to the said plaintiff for his damages and costs aforesaid, and make return of this writ with an endorsement hereon, in what manner you shall have executed the same in ninety days from the date hereof.

Witness William L. Church, clerk of our said court, and the seal thereof, at Chicago, in said county, this 14th day of July, A. D. 1857.

[SEAL.] WM. L. CHURCH, Clerk.

Endorsed on back: Fi. Fa. No. 7840, Case No. 9769.

Damages,	$1,833 50
Plaintiff's costs	4 50
Defendant's costs	1 55
	$1,839 55

Received 12-15 P. M., July 14, 1857.

And I return the said annexed execution satisfied.

JOHN L. WILSON, Sheriff.
By IRA SNOW, Deputy.

State of Illinois, County of Cook, ss.

The people of the State of Illinois to the sheriff of said county, greeting:—

We command you, that of the lands and tenements, goods and chattels, of David Sternberg and Edward Isidor, defendants, in your county, you cause to be made the sum of twenty-three hundred and thirty-six dollars and eighty-six cents, which John R. King, plaintiff, lately, in this Circuit Court of Cook County, at a special term thereof, begun and held at Chicago, in said county, on the fourth Monday of June last past recovered againt the said defendants, and which by the said court were adjudged to the said plaintiff for his damages.

And also the further sum of four dollars and fifty cents, which were adjudged to the said plaintiff for his costs and charges in that behalf expended, whereof said defendants convicted as appears to us of record, and have you these moneys ready to render to the said plaintiff for his damages and costs aforesaid, and make return of this writ with an endorsement thereon in what manner you shall have executed the same, in ninety days from the date hereof.

Witness William L. Church, clerk of our said court, and the seal thereof, at Chicago, in said county, this 14th day of July, A. D. 1857.

[SEAL.] WM. L. CHURCH, Clerk.

Endorsed on back: Fi. Fa. No. 7842, Case No. 9772.

Damages,	$2,336 86
Plaintiff's costs,	4 50
Defendant's costs,	1 55
	$2,342 91

Rec'd at 2 P. M., 14th July, 1857.

And I return the said annexed execution satisfied for two hundred eighty-six$\frac{68}{100}$ dollars.

JOHN L. WILSON, Sheriff.
By IRA SNOW, Deputy.

Rec'd hereon from the sh'ff of Cook County, per Ira Snow, dept., the sum of two hundred and eighty-six dollars and sixty-eight cents, Aug. 7, 1857.

All against David Sternberg and Edward Isidor, the whole of said goods being worth about five thousand dollars, having been sold on the above execution, and the money appropriated as designated in said execution.

All of which said thus last-mentioned executions were issued upon three several judgments of the Circuit Court of Cook County, corresponding in names and amounts with said executions; one of which said judgments, in favor of the said Lazarus Stein, was entered upon, and by virtue of the note and warrant of attorney of which the following is a copy.

$1200. Chicago, February 1st, 1857.

Four months after date, for value received, we promise to pay to Lazarus Stein, or order, the sum of twelve hundred dollars.

DAVID STERNBERG,
EDWARD ISIDOR.

Know all men by these presents, that whereas the subscribers, David Sternberg and Edward Isidor, are justly indebted to Lazarus Stern upon a certain promissory note bearing true date herewith for the sum of twelve hundred dollars and cents, made payable to the said Lazarus Stern, or order, and due four months from date.

Now, therefore, in consideration of the premises, and of the sum of one dollar to us in hand paid by the said Lazarus Stern, the receipt whereof is hereby acknowledged, we do hereby make, constitute, and appoint Hasbrouck Davis, or any attorney in any court of record, to be our true and lawful attorney, irrevocably for us and in our name, place, and stead to appear before any justice of the peace, or in any court of record, in term time or vacation, in any of the States or Territories of the United States, at any time after the date hereof to waive service of process and confess a judgment in favor of the said Lazarus Stern, or his or their assignee or assignees, upon the said note for the above sum, or for as much as appears to be due according to the tenor and effect of said note, with interest thereon, together with costs, also for ten dollars, usual attorney's fees, to be added to the amount due on entering up judgment; also to file a cognovit for the amount that may be so due, with an agreement herein that no writ of error or appeal shall be prosecuted upon the judgment entered by virtue hereof, nor any bill in equity filed to interfere in any manner with the operation of such judgment, and to release all errors that may intervene in the entering up of such judgment or issuing the execution thereon; and also to consent to immediate execution upon such judgment. Hereby ratifying and confirming all that our said attorney may do by virtue hereof.

Witness our hands and seals this first day of February, A. D. 1857.

DAVID STERNBERG, [SEAL.]
EDWARD ISIDOR. [SEAL.]

In presence of
HASBROUCK DAVIS,
GEORGE TERVESZELY.

And the other of which judgments in favor of the said Lazarus

Stern was entered upon and by virtue of the note and warrant of attorney of which the following is a copy.

$1800. Chicago, May 21st, 1857.

Thirty days after date, for value received, we jointly and severally promise to pay to Lazarus Stern, or order, the sum of eighteen hundred dollars, with interest.

DAVID STERNBERG,
EDWARD ISIDOR.

Know all men by these presents, that whereas the subscribers, Sternberg and Isidor, are justly indebted to Lazarus Stern, upon a certain promissory note bearing even date herewith, for the sum of eighteen hundred dollars, and cents made payable to the said Lazarus Stern, or order, and due thirty days after date.

Now, therefore, in consideration of the premises, and of the sum of one dollar, to us in hand paid by the said Lazarus Stern, the receipt whereof is hereby acknowledged, we do hereby make, constitute, and appoint or any attorney in any court of record to be our true and lawful attorney irrevocably for us, and in our name, place, and stead, to appear in any court of record in term time or vacation, in any of the States or territories of the United States, at any time after the date hereof, to waive service of process, and confess a judgment in favor of the said Lazarus Stern, or his or their assignee or assignees, upon the said note for the above sum, or for as much as appears to be due, according to the tenor and effect of said note, with interest thereon, together with costs; also for usual attorney's fees to be added to the amount due on entering up judgment; also to file a cognovit for the amount that may be so due, with an agreement therein that no writ of error or appeal shall be prosecuted upon the judgment entered by virtue hereof, nor any bill in equity filed to interfere in any manner with the operation of such judgment, and to release all errors that may intervene in the entering up of such judgment, or issuing the execution thereon, and also to consent to immediate execution upon such judgment.

Hereby ratifying and confirming all that our said attorney may do by virtue hereof.

Witness our hands and seals this twenty-first day of May, A. D. 1857.

DAVID STERNBERG, [SEAL.]
EDWARD ISIDOR. [SEAL.]

In presence of S. LOWENBAUM.

And also the said counsel for the said plaintiff introduced testimony tending to prove that the said firm of Sternberg & Isidor were, at the respective dates of said notes, indebted to said Lazarus Stern, in the sums mentioned in said notes respectively, and that said notes and warrants of attorney were given for such indebtedness.

But to the reading of the said judgments and executions in favor of Lazarus Stein in evidence, the said counsel for the said defend-

ants did then and there object, because the said notes and warrants of attorney are in favor of Lazarus *Stern*, and the said judgments and execution are in favor of Lazarus *Stein*.

But the said judge did then and there declare and deliver his opinion that the said objection so taken by the said counsel for the said defendants as aforesaid ought not to be allowed, but that the said judgment and execution ought to be admitted in evidence, and did accordingly decide that the same should be read in evidence, on the part of said plaintiff, among other reasons, for the purpose of showing the circumstances under which Stern come in possession of the goods, to which opinion and decision of the said judge the counsel for the said defendants did then and there on behalf of the said defendants except. And after other testimony in the cause upon both sides, the said issue was submitted to the jury, who found a verdict for the plaintiff.

And because none of the said exceptions so offered and made to the opinion and decision of the said judge do appear upon the record of the said trial, therefore on the prayer of the said defendants, by their counsel, the said judge hath to this bill of exceptions put his seal, according to the statute in such case made and provided, this day in the year 1859.

(This bill of exceptions only contains such part of the testimony offered in the case as serve to explain the points ruled by the court and referred to herein.)

Exceptions allowed February, 1859.

THOMAS DRUMMOND. [SEAL.]

Endorsed: Filed Feb'y 5th, 1859.

WM. H. BRADLEY, Cl'k.

And on the fifteenth day of March, in the year last aforesaid, came the said plaintiffs in error, by their attorneys, and sued out of the clerk's office of said court their writ of error in said entitled cause, which said writ of error is in the words and figures following, to wit:—

United States of America, Northern District of Illinois, ss.

The United States of America, to the judges of the Circuit Court of the United States for the Northern District of Illinois, greeting:—

Because in the record and proceedings, and also in the rendition of a judgment in a plea, which is in the said court, before you, between Levi J. Unna and against Henry A. Kohn, Joseph Kohn, William M. Ross, John H. Ross, Morris Selz, Abraham Cohen, Henry Leopold, John M. Huntington, Leonard B. Shearer, and William W. Strong, a manifest error hath happened to the great damage of the said Henry A. Kohn, Joseph Kohn, William M. Ross, John H. Ross, Morris Selz, Abraham Cohen, Henry Leopold, John M. Huntington, Leonard B. Shearer, and William W. Strong,

as by their complaint appears, and it being fit that the error, if any there hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, you are hereby commanded, if judgment be therein given, that then under your seal distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington, on the first Monday of December next, in the said Supreme Court, to be then and there held, that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error, what of right and according to the law and custom of the United States should be done.

Witness the Hon. Roger B. Taney, Chief Justice of the Supreme Court of the United States, this fifteenth day of March, A. D. 1859, and of our independence the 83d year.

WM. H. BRADLEY, Clerk.

Endorsed: Filed March 15th, 1859.

WM. H. BRADLEY, Clerk.

And on the 16th day of March, in the year last aforesaid, came again the said plaintiffs in error, and filed in the office of the clerk of said court their bond in said entitled cause, which said bond is in the words and figures following, to wit:—

Circuit Court of the United States for the Seventh Circuit and Northern District of Illinois.

LEVI J. UNNA

vs.

WILLIAM M. ROSS, JOHN H. ROSS, HENRY A. KOHN, JOSEPH KOHN, LEONARD B. SHEARER, WILLIAM W. STRONG, MORRIS SELZ, ABRAHAM COHEN, JOHN M. HUNTINGTON, and HENRY LEOPOLD.

In error.

Know all men by the presents, that we, William M. Ross, John H. Ross, Leonard B. Shearer, William W. Strong, and John M. Huntington, and William Jones, and Adam Murray, of the city of Chicago, and State of Illinois, are held and firmly bound unto the above named Levi J. Unna, in the sum of eight thousand dollars, to be paid to the said Levi J. Unna, his executors or administrators. To which payment well and truly to be made we bind ourselves, and each of us, jointly and severally, and our, and each of our heirs, executors and administrators, firmly by these presents, sealed with our seals and dated this sixteenth day of March, A. D. 1859.

Whereas, the above named William M. Ross, John H. Ross, Leonard B. Shearer, William W. Strong, and John M. Huntington, have prosecuted a writ of error to the Supreme Court of the United States, to reverse the judgment rendered in the above entitled suit, by the Circuit Court of the United States for the Seventh Circuit

and Northern District of Illinois, on the fifth day of March, A. D. 1859, for six thousand three hundred and seven dollars and eighty-nine cents ($6,307 89).

Now therefore, the condition of this obligation is such, that if the above named William M. Ross, John H. Ross, Leonard B. Shearer, William W. Strong and John M. Huntington shall prosecute their said writ of error to effect, and answer all damages and costs if they shall fail to make good their plea, then this obligation shall be void, otherwise the same shall be and remain in full force and virtue.

WM. M. ROSS,
By JOHN H. ROSS, Attorney. [SEAL.]
JOHN H. ROSS. [SEAL.]
LEONARD B. SHEARER,
By WM. W. STRONG, Att'y. [SEAL.]
WM. W. STRONG. [SEAL.]
JOHN M. HUNTINGTON. [SEAL.]
WILLIAM JONES. [SEAL.]
A. MURRAY. [SEAL.]

Approved. THOMAS DRUMMOND.

Sealed and delivered in presence of
WM. H. BRADLEY,
As to all except J. M. Huntington.

In presence of
A. T. GALT,
As to J. M. Huntington.

Northern District of Illinois, ss.

William Jones, of said district, party to the above bond, being duly sworn, deposes and says that he resides in the Northern District of Illinois, and is worth the sum of eight thousand dollars over and above all his debts and liabilities. WILLIAM JONES.

Sworn this sixteenth day of March, A. D. 1859, before me,
WM. H. BRADLEY, Cl'k.

Northern District of Illinois, ss.

Adam Murray, of said district, party to the above bond, being duly sworn, deposes and says, that he resides in the Northern District of Illinois, and is worth the sum of eight thousand dollars over and above all his debts and liabilities. A. MURRAY.

Sworn this sixteenth day of March, A. D. 1859, before me,
WM. H. BRADLEY, Cl'k.

Endorsed: Filed March 16th, 1859.
WM. H. BRADLEY, Cl'k.

And afterwards, to wit, on the seventeenth day of March, in the year last aforesaid, came again the said plaintiffs in error, by their attorneys, and sued out of the office of the clerk of said court their

citation in said entitled cause, which said citation is in the words and figures following, to wit:—

United States of America, ss.

To Levi J. Unna, greeting: You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at Washington, on the first Monday of December next, pursuant to a writ of error filed in the Clerk's Office of the Circuit Court of the United States for the Seventh Circuit and Northern District of Illinois, wherein Henry A. Kohn, Joseph Kohn, William M. Ross, John H. Ross, Morris Selz, Abraham Cohen, Henry Leopold, John M. Huntington, Leonard B. Shearer and William W. Strong are plaintiffs, and you are defendant in error, to show cause, if any there be, why the judgment in the said writ of error mentioned should not be corrected, and speedy justice should not be done to the parties in that behalf.

Witness Thomas Drummond, Judge of the District Court and ex-officio one of the Judges of the Circuit Court of the United States, this 17th day of March, in the year of our Lord 1859.

Chicago, March, 1859. THOMAS DRUMMOND.

We accept service of a copy of the within citation this 17th day of March, A. D. 1859. TULEY & GARY,
Att'ys for Unna.

Endorsed: Filed March 17th, 1859.
WM. H. BRADLEY, Cl'k.

Northern District of Illinois, ss.

I, William H. Bradley, Clerk of the Circuit Court of the United States for the Northern District of Illinois, do hereby certify the foregoing transcript to be a true and correct copy from the record of this court of all the proceedings had in said court in a cause then pending in this court wherein Levi J. Unna was plaintiff, and Henry A. Kohn et al. were defendants, as the same remains of record in my office.

In testimony whereof I have hereunto set my hand and affixed the seal of said court, at my office in Chicago, in said Northern District of Illinois, this nineteenth day of November, in the year of our Lord one thousand eight hundred and fifty-nine, and of our independence the eighty-fourth year.

[SEAL.]

WM. H. BRADLEY, Cl'k.

United States of America, ss.

In the Supreme Court of the said United States, of the Term of December, A. D. 1859.

And now come the said plaintiffs in error, to wit, William M. Ross, John H. Ross, Leonard B. Shearer, William W. Strong and John M.

Huntington, by Robert S. Blackwell, their attorney, and says that in the record of the proceedings aforesaid and in the rendition of the judgment aforesaid by the said Circuit Court for the said Northern District of Illinois, manifest error hath intervened to the prejudice of the said plaintiffs in error, in this, to wit:—

1. That it appears by the said record that the said Circuit Court had not cognizance or jurisdiction of said cause.

2. That it appears by the record aforesaid that the said declaration was and is inefficient in law to sustain the verdict and judgment aforesaid.

3. That it appears by the record aforesaid that the said court erred in discharging the jury first empanelled in said cause.

4. That the said Circuit Court erred in admitting illegal evidence, particularly mentioned and set forth in the said bill of exceptions.

5. That it appears by the record aforesaid that the said Circuit Court erred in permitting the said John L. Wilson and George Anderson to testify in said cause upon the said last mentioned trial.

6. That it appears by the said record that the said Circuit Court erred in permitting the introduction of the said judgments and executions in favor of the said Lazarus Stein in evidence in behalf of the said plaintiff in said cause.

7. That it appears by the record aforesaid that the said Circuit Court erred in rendering a judgment in favor of the said plaintiff and against the said defendants upon the verdict aforesaid.

8. That it appears by the record aforesaid that the said Circuit Court erred in rendering a judgment for the said plaintiff when by the laws of the land said judgment ought to have been for the said defendants below.

Wherefore, and for other errors in the record aforesaid, the said plaintiffs in error pray that said judgment may be set aside, omitted, reversed and for nothing esteemed, &c.

R. S. BLACKWELL,
Attorney for the Plaintiffs in Error.
W. B. WEBB, for Pl'ff.

Filed 9th December, 1859.

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